

### **REMARKS**

The present Amendment is responsive to the Official Action dated September 12, 2007, and is filed concurrently with a request for continued examination. In the Official Action, some subset of the claims appears to be provisionally rejected for double patenting. Also, Claims 1-41 were rejected under 35 U.S.C. § 102(b) as being anticipated by International Published Patent Application No. WO 02/057959 to Rothmuller *et al.* ("*Rothmuller*").

Applicants acknowledge with appreciation the Examiner's withdrawal of the objections to the claims and specification, and also the withdrawal of the claim rejections under 35 U.S.C. § 112. By this Amendment, Claims 1, 20, 22, 26, 32, and 37 have been amended. Reconsideration of the claims in view of the preceding amendments and the following remarks is respectfully requested.

#### **I. Double Patenting Rejections**

It appears that Claims 1, 4, 37, and 39 of the present application were subject to provisional non-statutory type double patenting rejections in light of U.S. Patent Application No. 10/715,162. Given that the rejections are provisional, Applicants respectfully request that the rejections be held in abeyance until such time as a cited patent application issues as a patent. Such request was made in a prior amendment, but this prior request was not acknowledged by the Examiner.

It may be that other double patenting rejections are being asserted by the Examiner against the claims of the present application. However, whether or not this is the case is unclear from the text of the Official Action, which is reproduced below (see pp. 3-4 of the Official Action).

Claims of instant application (10/792175) 1, 21, 24, and 35 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 5, 7, 11, and 13 of copending Application No. 10/715,162. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reason set forth hereinbelow.

Claims of instant application 10/792,175 are essentially the same as claims of copending application 10/715,162 except that the instant application recites "timeline view that is presented in combination with media view and provides access to media files." The copending application has "time bar that divides time segments having a size."

It would have been obvious to a person of ordinary skill in art at the time of the invention was made to display timeline view that combine with media view and media file.

Claims of instant application (10/715095) 1, and 22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, and 11 of copending Application No. 10/715,162. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reason set forth hereinbelow.

Claims of instant application 10/715095 are essentially the same as claims of copending application 10/715,162 except that the instant application recites "browse of media view and a media handle" but the co-pending application recites "views of media view and the time bar."

It would have been obvious to a person of ordinary skill in art at the time of the invention was made to browse of media view and media handle with ability to view over several period of time.

As can be seen in the above quoted passages, the Official Action contrasts U.S. Patent Application No. 10/792,175 with 10/715,162, and then contrasts U.S. Patent Application No. 10/715,095 with 10/715,162. However, none of these are the present application (which is 10/715,187). Applicants ask that the Examiner clarify the extent of the double patenting rejections as they relate to the present application and confirm that the references to double patenting in the separate and unrelated cases were erroneously included in the Official Action. Further, to the extent that any additional double patenting rejections exist in the present case, Applicants ask that any of these rejections that may be provisional in nature be held in abeyance until such time as a cited patent application issues as a patent.

## II. Section 102(b) Rejections

Amended independent Claim 1 reads as follows:

1. A product comprising:  
a computer readable storage medium; and  
computer-readable program instructions embodied in the medium,  
the computer-readable program instructions including:  
first instructions for generating a calendar view that  
represents time in calendar format and associates events with respective periods  
of time, at least one of the respective periods of time being prospective; and  
second instructions for generating a media view that  
provides access to digital media files and associates digital media files with a  
period of time.

Amended independent Claims 20, 22, 26, 32, and 37 all similarly make reference to “prospectively calendared events” (in one form or another). The specification further explains that the “media diary provides for a calendar view of calendared events and reminders and a media view of media items associated with a past calendared event or date. . . Typically the calendar view provides the user with access to future calendared events and the media view provides the user with access to media files associated with a past event or period of time.” See ¶¶ 0009-0010 of the present application.

The Official Action indicates *Rothmuller* discloses “first instructions for generating a calendar view that represents time in calendar format and associates events with respective periods of time,” specifically citing p. 3, lines 11-15 of *Rothmuller*. See p. 5 of the Official Action. Neither this nor any other part of *Rothmuller* discloses the generation of a calendar view that includes, or is capable of including, prospectively calendared events. Alternatively, each of independent Claims 1, 26, 32, and 37 recites, in one form or another, the presence of prospectively calendared events.

Applicants note that the “customized calendar events such as birthdays and anniversaries (page 5, lines 18-25)” referred to in the Official Action (see p. 5 of the Official Action) are not actual prospectively calendared events. Rather, as *Rothmuller* explains at the cited passage (p. 5,

II. 18-25):

The events tag category includes default tag types for parties and vacations, and can be customized to include tag types for particular types of events such as concerts, plays, shows and sporting events, and for particular events such as the 2002 Boston Marathon. In addition, tags in the events category can include pre-defined calendar events such as New Years Eve, and customized calendar events such as birthdays and anniversaries. Tags in the event tag category can contain attributes corresponding to the names locations, and dates of the underlying events associated with the tags.

The above passage can be understood in light of a preceding passage from *Rothmuller* (p. 4, l. 4 to p. 5, l. 2):

The present invention provides a method for users to organize and find digital images and photos by tagging them . . . in one embodiment tags can be applied to photos by dragging and dropping graphical icons representing the tags onto one or more photos that are displayed in an image area. When a tag is dropped onto a photo, the database record that contains a pointer to the photo is updated to contain or point to metadata that is associated with the tag that has been dropped onto the photo. This metadata can include when the photo was taken, where it was taken, the nature of the event at which it was taken, the subject of the photo, and whether the user considers the photo one of his or her favorites. . . Tags, and the metadata they contain, can be created and modified in a tag editor. The tag editor allows a user to specify a tag name and tag type, and to enter metadata in the form of tag attributes that can be stored in tags of specified tag type. For convenience, tags can be divided into one or more tag categories. For example, in one embodiment tags are divided into people, events, places and miscellaneous tag categories.

So, as the above quoted passages explain, the “events” (such as New Years Eve, birthdays, and anniversaries) referred to in *Rothmuller* (and by the Official Action) are simply types of metadata that can be associated with metadata tags. That is, a user of the system of *Rothmuller* can utilize the described “tag editor” to create customized metadata tags (not calendared events) that include user-selected pieces of information. None of the above passages, and indeed nothing in *Rothmuller*, teaches the prospective calendaring of actual events. To reiterate, there is no picture or text in *Rothmuller* that shows/discusses a calendar including prospective, upcoming events, nor that discloses the ability to create such a calendar. Instead, *Rothmuller* is exclusively directed to the organization of digital images through the use of metadata tags.

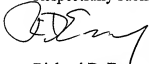
For at least the above reason, Applicants respectfully submit that each of independent Claims 1, 20, 22, 26, 32, and 37, as well as the claims respectively depending therefrom, are patentable over *Rothmuller*.

### III. Conclusion

In view of the remarks and amendments presented above, it is respectfully submitted that the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is requested to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Richard D. Emery  
Registration No. 58,894

Customer No. 00826  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111  
LEGAL02/30662278v1

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JANUARY 14, 2008.